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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,668	11/13/2001	Patrick W. Giraldin	8591-103	8492

36412 7590 03/06/2007  
DUCKOR SPRADLING METZGER & WYNNE  
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3043 Fourth Ave.  
SAN DIEGO, CA 92103

EXAMINER
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PIZIALI, JEFFREY J

ART UNIT	PAPER NUMBER
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2629

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
30 DAYS	03/06/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

09/992,668

Examiner

Jeff Piziali

Applicant(s)

GIRALDIN ET AL.

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 25 August 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: See Continuation Sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
\_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.



## Continuation of 4(e) Other:

First and foremost, the applicants are cordially thanked for the 'Supplemental Amendment' filed 25 August 2006. However, several seemingly non-compliant amendments have been discovered in the aforementioned response, requiring attention before examination may continue.

37 C.F.R. § 1.121(c)(2) requires, "All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of 'currently amended,' and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived."

In this case, the immediate prior version of the claims was submitted in the 'Reply and Amendment' filed 21 June 2004.

The 'Supplemental Amendment' filed 25 August 2006 appears to improperly underline text which was already present in the immediate prior version of the claims (in the 'Reply and Amendment' filed 21 June 2004).

For instance, claim 14 underlines a portion of "communicating" (see line 14), even though this text was already present in the immediate prior version of the claims (see Page 4 of the 'Reply and Amendment' filed 21 June 2004).

The applicants are respectfully encouraged to make sure that claim amendments are submitted with the proper markings to indicate the changes that have been made relative to the immediate prior version of the claims (i.e., the claims in the 'Reply and Amendment' filed 21 June 2004).

Additionally, the 'Supplemental Amendment' filed 25 August 2006 improperly uses strike-through to show deletion of five or fewer consecutive characters and when strike-through cannot be easily perceived.

For example, strike-through is applied to apparently delete "each," "all," and "area" (e.g., see Page 5, Claim 14, Lines 25 and 27; and Claim 15, Line 10 of the 'Supplemental Amendment' filed 25 August 2006).

Furthermore, the 'Supplemental Amendment' filed 25 August 2006 improperly uses both strike-through and double-brackets simultaneously to apparently delete the letter "n" from the term "an" (e.g., see Page 4, Claim 14, Line 5; and Page 5, Claim 15, Line 3 of the 'Supplemental Amendment' filed 25 August 2006).

The applicants are respectfully encouraged to use double brackets (not strike-through) to show deletion of five or fewer consecutive characters.

By such reasoning, this Notice of Non-Compliance is deemed necessary and proper at this time.

Please note: The amendments have not been checked to the extent necessary to determine the presence of all possible non-compliance errors. If additional issues of non-compliance are discovered at the time of a subsequent amendment, yet another Notice of Non-Compliant Amendment will be necessitated. Applicants' cooperation is requested in correcting any other errors of which applicants may become aware.



Jeff Piziali  
28 February 2007